

***INCLUSION OF
SPECIAL POPULATIONS***

***IN THE STATE-REQUIRED ASSESSMENT AND ACCOUNTABILITY
PROGRAMS
703 KAR 5:070***

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INTRODUCTION, BACKGROUND, AND PURPOSE

According to KRS 158.6455, it is the intent of the General Assembly that schools succeed with all students. The state-required Assessment and Accountability Programs is inclusive of all students at specific grade levels. The Disabilities and Diversity Advisory Committee, which includes teachers, school administrators, university representatives, advocacy representatives, and members of the Department of Education, was established at the beginning of the test development process to consider issues related to the inclusion of special populations in the state-required Assessment and Accountability Programs. The conclusions and advice of the Committee were incorporated in this document.

The purpose of this document is to provide direction for the inclusion of special populations in the state-required Assessment and Accountability Programs. These populations include:

- students with disabilities
- students who attend schools classified as A2 through A6 schools as defined in 703 KAR 5:040 and state agency children as provided in 905 KAR 7:250
- students whose primary language is not English
- students receiving instruction in home/hospital settings as specified in 704 KAR 7:120 (i.e., homebound instruction, not home schools)
- students who have temporary medical conditions that necessitate accommodations or modifications or both for participation

Section 6 provides conditions for implementing accommodations or modifications or both for students participating in the state-required Assessment and Accountability Programs.

STUDENT INCLUSION

The provisions in this document are applicable to all students except those who are:

- twenty-one (21) years of age or older who are part time students attending less than six (6) hours per day. (see Section 1, B.2)
- enrolled in an Adult General Education Diploma (GED) Program and are not officially enrolled in a Kentucky public high school. These students are considered dropouts for accountability purposes, and therefore, are not subject to the inclusion policies described in this document. Students enrolled in a Secondary GED Program offered by a Kentucky public high school are not considered to be dropouts for accountability purposes, and therefore, are subject to the inclusion policies described in this document.

SUMMARY OF THE STANDARDS FOR INCLUSION OF SPECIAL POPULATIONS

- All students with disabilities shall participate in the state-required Assessment and Accountability Programs.
- A small percentage of students with disabilities shall participate in the Alternate Portfolio Assessment Program. These students are generally those who have moderate to severe

cognitive disabilities and represent one (1) to two (2) percent of the total student population. (The Alternate Portfolio Assessment Program was implemented in the 1992-1993 school year.)

- **Each school shall assess all students with limited English proficiency enrolled on the first day of the testing window (see page 10, SECTION 3 - INCLUSION OF STUDENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH for specifics of assessment and accountability and for exceptions applicable to LEP students during their first year of enrollment in a United States school.)**

- Students receiving instruction in home/hospital settings shall participate in the state-required Assessment and Accountability Programs unless participation in the state required assessment would jeopardize a student's physical, mental or emotional well being and a school or district has submitted a request for medical exemption, which is subject to the approval of the Department of Education and which describes the medical condition that warrants exempting a student from all or portions of the assessments.

SECTION 1 - INCLUSION OF STUDENTS WITH DISABILITIES

Students with disabilities are students who meet the criteria under KRS157.200 and Kentucky Administrative Regulations (707 KAR Chapter 1) related to Exceptional Children or Section 504 of the Rehabilitation Act of 1973. These federal and state laws and regulations apply to all subsequent sections referencing students with disabilities.

A. Three Options for Inclusion

A student's Individual Education Program (IEP) or 504 Plan should be written for a calendar year with the Admissions and Release Committee (ARC) or 504 Committee considering adjustment periods for adding or deleting accommodations or modifications or both. For students with disabilities, the ARC or 504 Committee shall determine on an individual basis how the student will be included in the state-required Assessment and Accountability Programs. The decision of the Committee shall be stated in the student's IEP or 504 Plan. The three options for inclusion shall include:

1. Participation with no accommodations or modifications

Students with disabilities who participate fully in the state-required Assessment and Accountability Program with no accommodations or modifications shall include:

- students who have been referred to an Admissions and Release Committee or a 504 Committee and the evaluation process and eligibility determination have not been completed; or
- students with disabilities not receiving special education and related services or accommodations and interventions under Section 504.

2. Participation with accommodations or modifications or both

Students who:

- a. meet the eligibility criteria for one of the disability categories under the Kentucky Administrative Regulations Related to Exceptional Children;
- b. have a current Individual Education Program (IEP); and
- c. are receiving specially designed instruction and related services may use accommodations or modifications or both for the state-required Assessment under the following three conditions:

- 1) Accommodations or modifications or both shall be a part of the student's regular instructional routine and are not used or introduced just for the purpose of the state-required Assessment;
- 2) Accommodations or modifications shall be related to the individual student's needs and the impact of the disability on specific areas of learning. Decisions concerning the use of accommodations or modifications or both shall be supported by evaluation information and the IEP (the student's present level of performance, specific goals and objectives, specially designed instruction, related services or supplementary aids and services) as necessary for the student to access the general education curriculum; and
- 3) Accommodations or modifications or both are specified in the student's IEP.

Students who meet the eligibility criteria in Section 504 of the Rehabilitation Act of 1973 for having a physical or mental disability which substantially limits one or more major life activities (i.e., learning) and have a current 504 Plan may use accommodations for the state-required Assessment under the following three conditions:

- accommodations or modifications or both are part of the student's regular instructional routine and are not used or introduced just for the purpose of the state-required Assessment;
- accommodations or modifications or both are related to the individual student's needs and the impact of the disability on specific areas of learning. The decision to allow these accommodations or modifications or both shall be supported by evaluation information and instructional planning for the targeted areas of need as necessary for the student to access the general education curriculum; and

- accommodations or modifications or both are specified in the student's 504 Plan as part of interventions and modifications.

Physical or mental impairments are defined in Section 504 of the Rehabilitation Act of 1973 implementing regulations (104.3(h)) as:

- “any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
- any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.”

Examples of conditions that meet this definition are orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; mental retardation; emotional illness; specific learning disabilities; and kidney and liver disease.

Staff in each school district shall refer to the local district's policies and procedures for implementing the requirements under Section 504 related to evaluation, determination of eligibility, and provision of services.

3. Participation in the Alternate Portfolio Assessment Program

To participate in the Alternate Portfolio Assessment Program, a student shall meet all the criteria for the certificate program as stated in 707 KAR Chapter 1 related to Exceptional Children and the Program of Studies (704 KAR 3:303).

The Admissions and Release Committee for the student with disabilities shall:

- determine and verify in the student's Individual Education Program (IEP) that the student meets all of the criteria for the certificate program in order to participate in the Alternate Portfolio Assessment Program;
- document in writing in the student's record the basis for the decision using current and longitudinal data such as the following:
 - performance data across multiple settings;
 - behavior observations in multiple settings;
 - adaptive behavior; and continuous assessment of progress on IEP goals/objectives; and
- review annually this decision in accordance with 707 KAR Chapter 1

The results of each student's Alternate Portfolio Assessment shall be included ~~[count]~~ in the accountability calculations to determine the school's performance judgment and be equivalent to the impact of a student participating in the regular state-required Assessment and Accountability Programs process.

B. Determining Age for Completion of Alternate Portfolio

Students who participate in the Alternate Portfolio Assessment Program shall submit a completed Alternate Portfolio once each at the elementary, middle, and high school levels. These Alternate Portfolio scores shall be included in the Accountability data. The elementary portfolio shall be completed at the fourth grade, but no later than the school year in which the student is eleven (11) years old on October 1st. The middle school portfolio shall be completed at the eighth grade, but no later than the school year in which the student is fifteen (15) years old on October 1st. The high school portfolio shall be completed during the student's last anticipated full year of school.

C. Students with Disabilities in Non-Graded Programs Who Do Not Participate in the Alternate Portfolio Assessment Program

Students with disabilities in non-graded programs who do not participate in the Alternate Portfolio Assessment Program shall be required to participate in the state-required Assessment and Accountability Programs at their present appropriate grade assignment with instructionally appropriate accommodations or modifications or both as determined by the student's ARC or 504 Committee. These accommodations or modifications or both shall be documented in each student's IEP or 504 Plan since the same kinds of instructional accommodations and modifications as specified in the student's IEP or 504 Plan are permitted on each of the accountability assessment components and norm-referenced assessments.

D. Inclusion of Twenty-one (21) Year Old Students with Disabilities in the Assessment Program

If a student with disabilities turns twenty-one (21) years old during a school year, the student may "age out" of school without completing the school year and participating in the state-required Assessment and Accountability Programs (e.g., a student exits school after becoming 21 years old in January). If this is a possibility, the student shall be included in the assessment during the school year prior to turning 21 years old.

E. Inclusion of Students with Disabilities Who Skip a Grade

If a student is assigned to a higher grade that results in skipping a grade within the accountability system, the student like a student without disabilities shall still participate in the assessment components associated with the grade being passed through (i.e., students participate in all elementary, middle, and high school assessment components).

F. Inclusion of Students with Disabilities in the Measure of the Percentages of Students Making Successful Transitions to Adult Life

With the exception of students who participate in the Alternate Portfolio Assessment Program, schools that serve students with disabilities shall be held accountable for these

students' successful transition to adult life using the same standards applied to calculate this non-academic indicator for all other students.

Students who participate in the Alternate Portfolio Assessment may be considered to have made successful transitions to adult life if they:

1. make a successful transition to adult life as defined for the regular population of students;
2. enroll as a full- or part-time student (no less than ten (10) hours per week), at a post secondary vocational school or adult education program preparing students for integrated work;
3. work in an integrated setting (for at least ten (10) hours per week) where the majority of workers are not disabled; or
4. participate in supported employment.

Students transitioning to community rehabilitation programs shall be considered successful if the post-secondary training or employment takes place in an integrated environment.

SECTION 2 - INCLUSION OF STUDENTS IN SCHOOLS CLASSIFIED AS A2 THROUGH A6 AND STATE AGENCY CHILDREN

A2 through A6 Schools

Students attending schools classified as "A2 through A6" as provided in 703 KAR 5:040 shall be included in the overall accountability program. These students' scores shall be tracked back to the A1 schools that would have served them on the specified date for establishing accountability rosters had they not required services offered by the A2-A6 schools they attend.

The Kentucky School for the Deaf and the Kentucky School for the Blind are comparable to an A3 school classification and shall be treated as such. A local school and district shall be accountable for a student in their service areas attending these schools and shall be responsible for providing input into each student's IEP designed to meet the needs of the individual student in accordance with Kentucky Administrative Regulations for Exceptional Children (707 KAR Chapter 1).

If an "A1" school operates programs for special populations from outside the school's normal service area, then the A1 school serving the students may request that assessment results of these students be attributed to the "sending A1" school. The decision whether to request that assessment results be attributed to the "sending" school shall be consistent over a given Accountability Cycle. If a change is implemented at the local level the Kentucky Department of Education shall be notified and the affected goal lines and assistance lines shall be adjusted appropriately. The Department shall be notified prior to July 1 of the first year of the biennium impacted. This transfer of data may be applied to programs such as vocational- technical, special education, alternative, and gifted and talented programs.

State Agency Children

“State agency children” shall have the same assessments administered as other public school youth in A5 and A6 schools as specified in 703 KAR 5:040. The results of the assessments shall be included in the accountability index of the last A1 school the youth attended prior to admittance to a state agency program or the A1 school the youth would have attended if the youth had remained in that local school district.

“State agency children” shall develop portfolios consistent with the content requirements of the state’s assessment program. A state agency child’s portfolio shall be sent to the receiving school as part of the educational records when youth transition from the state agency program.

SECTION 3 - INCLUSION OF STUDENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH

For purposes of this document, students whose primary language is not English shall include students with limited English proficiency as defined in 703 KAR 5:001. For purposes of calculating a school or district’s academic indices and for determining adequate yearly progress in the federal dimension of the state’s accountability program, schools and districts shall for two years maintain in the subgroup of students with limited English proficiency students who have attained English proficiency based on a state-approved English language proficiency assessment in conjunction with professional judgment. However, when determining whether the subgroup of students with limited English proficiency meets the state-defined minimum group size, these students who have attained English proficiency shall not be required to be counted as students with limited English proficiency.

Part One: State-Required Assessment and Accountability Programs

Each school shall assess all students with limited English proficiency enrolled on the first day of the testing window in all parts of the state-required assessments and their scores shall be included in accountability calculations consistent with state law, unless the students are in their first year of enrollment in a United States school.

Students with limited English proficiency in the first year of enrollment in a United States school shall be required to take an English language proficiency assessment and, if the student enrolls in a grade in which a NCLB-required mathematics test is administered, the state-required mathematics assessment with accommodations or modifications or both as appropriate.

All students with limited English proficiency enrolled on the first day of the testing window shall be included in calculations of the school and district’s participation rate. A student with limited English proficiency in the first year of enrollment in a United States school shall be included in the school and district’s participation rate based on the student’s participation in the NCLB-required mathematics assessment, if the student is enrolled in a grade where a NCLB-required mathematics assessment is administered. For students with limited English proficiency who are enrolled for the first year in a U.S. school and are not in a grade in which there is a NCLB-required mathematics test, their participation shall be based on taking

an English language proficiency assessment (or the NCLB-required reading assessment if the school or district chooses to administer it).

Students with limited English proficiency in their first year of enrollment in a U.S. school shall not be required to participate in the state-required reading, science, social studies, practical living/vocational studies, arts and humanities, or writing on-demand assessments. For these students, these assessments shall be optional at the discretion of the school and district.

For the purposes of calculating a school's academic indices in the state dimension and for determining adequate yearly progress, each school shall be held accountable based on an aggregated average of the academic performance of the elementary, middle, or high school students who have been enrolled in the school for a full academic year in the accountability grades; and each district shall be held accountable based on an aggregated average of the academic performance of the elementary, middle, or high school students who have been enrolled in the district for a full academic year in the accountability grades. These accountability requirements shall also apply to limited English proficient subpopulations of sufficient size, except for students with limited English proficiency who are in their first year of enrollment in a U.S. school.

For students with limited English proficiency who are in their first year of enrollment in a U.S. school and have been enrolled for a full academic year as defined in 703 KAR 5:001, a school and district may choose to include results from the NCLB-required mathematics assessment (and, if given, the state-required reading, science, social studies, arts and humanities, practical living/vocational studies, and writing on demand assessments) in accountability calculations for both the school's academic indices in the state dimension and for determining adequate yearly progress. If this option is exercised, the decision shall be consistent across all content areas for the student.

For students who have been identified with limited English proficiency, it may be necessary to permit instructionally consistent accommodations or modifications, or both for the assessment administration. Any accommodations or modifications or both shall be based on an assessment of English language proficiency, consistent with the normal on-going delivery of instructional services, and stated in the student's Program Services Plan.

If a student with limited English proficiency who is not in the first year of enrollment in a U.S. school has been in an English language instructional environment for at least two (2) full school years prior to the year of the writing assessment in question, the student shall be required to submit a writing portfolio and shall be included in writing portfolio accountability calculations consistent with state law. For instructional purposes a school may allow a student with limited English proficiency, who has not been in an English language instructional environment for at least two (2) full school years prior to the year of the writing assessment in question, to develop a writing portfolio; however, the portfolio shall not be included in writing portfolio accountability calculations.

Part Two: State-Required English Language Proficiency Assessment

A. Assessment of English Language Proficiency, Determining Participation in the State-Required Assessment and Accountability Programs and Determining if Accommodations or Modifications or Both are Needed

A local school district shall administer a home language survey to students enrolled in the district as the first screening process to identify students with limited English proficiency. The home language survey shall be based at a minimum on four questions.

- What is the language most frequently spoken at home?
- Which language did your child learn when he/she first began to talk?
- What language does your child most frequently speak at home?
- What language do you most frequently speak to your child?

If the answer to any of these questions is a language other than English, the local school district shall consider that the student may have limited English proficiency and the student shall be administered an annual assessment of English proficiency (measuring students' oral language in listening and speaking, reading, and writing skills in English). Schools shall use an English language proficiency assessment that is approved by the Department of Education. The performance of students on this approved assessment shall be monitored by the district and reported to the Department of Education. A student's score on the English language proficiency assessment in conjunction with professional judgment shall formally determine whether or not the student is identified as a student with limited English proficiency. In the event professional judgment differs from the results of the English language proficiency assessment, a parent or guardian of the student shall approve with signature the student's classification as a student with limited English proficiency.

For all students with limited English proficiency, school personnel shall determine on an individual basis whether these students will participate with or without accommodations or modifications or both in the state-required Assessment and Accountability Programs. A student with limited English proficiency may use accommodations or modifications or both in the state-required assessments if the student meets all of the following criteria:

1. has been assessed with an English language proficiency assessment and meets the criteria as a student with limited English proficiency;
2. has evaluation data that demonstrates a need for accommodations, modifications, or both;
3. has a current Program Services Plan developed by school personnel that includes accommodations or modifications or both as part of the student's ongoing delivery of instruction; and
4. is participating in instructional programs and services to meet the language and academic content needs of the student.

These accommodations or modifications or both shall be related to the individual student's needs and the impact of the student's English language proficiency on demonstrating what the student knows on a test written in English and the ability to access the curriculum. These decisions shall be made in the best interest of the student (e.g.,

scribing for a student throughout the school year just so that a scribe can be provided for assessment is not in the student's best interest).

B. Documentation Needed to Implement Accommodations or Modifications or Both

If accommodations or modifications or both are needed, documentation shall include:

- the name of the assessment administered to determine a student's English language proficiency and the appropriate accommodations or modifications or both that are needed;
- a Program Services Plan that includes the specific accommodations or modifications or both to be implemented in instruction;
- a list of the names of persons who reviewed the documentation and made the decisions. The list of staff shall be placed within the student's cumulative records; and
- the signature of the principal of the appropriate school as an indication of approval for the described accommodations or modifications or both.

Performance on the English language proficiency assessment in conjunction with professional judgment shall also determine when accommodations or modifications or both are no longer required. Implementation of any accommodations or modifications or both shall not inappropriately impact the content being measured.

C. Implementation of Accommodations or Modifications or Both

Accommodations or modifications or both, when consistent with the normal on-going delivery of instructional services, may include:

1. Administration Strategies:

- reading text to student in English;
- paraphrasing directions for tasks in English or in the student's primary language;
- oral translation of text to the student's primary language;
- administering assessments to small groups of students whose primary language is not English to enable paraphrasing in accordance with paraphrasing guidelines in Section 6 of this regulation and/or translations to student's primary language; and
- administering a single form of the test to a small group of Limited English Proficient students receiving the accommodation of primary language interpretation because a limited number of staff with skills in the student's native language are available.

Every effort should be made to distribute test forms to all students in a random order. Under the condition that a school can demonstrate no feasible way to provide a multiple number of interpreters for students who are limited in English proficiency, school staff may allow students to use the same form of the test so that one interpreter per foreign language may be employed to provide this accommodation. To meet the need for interpreter services, students who have limited English proficiency may use a different test administration schedule than the regular student population, as long as the different schedule is within the district-established testing window. A list of students who are administered the same form of

the test for this purpose shall be submitted to the Division of Assessment Implementation along with the assigned lithocode for each student. If a student has a hearing or visual impairment, uses audiotape, or on-line testing, the student shall be provided the specific form as directed in administration materials.

Use of the same form of the test shall not be permitted for students with disabilities who require scribes or readers, since there is such a large number of these students and one form of the test would be overused considerably within a school.

2. Processing and Response Strategies:

- use of foreign language dictionaries and glossaries that provide translations to student's primary language;
- use of word processor or typewriter; and
- use of grammar or spell-check systems.

A student may not write responses to the state-required Assessment in a language other than English and have a teacher translate. However, the student may be allowed accommodations or modifications or both on the assessment, and these may include dictation of responses, which may be transcribed into English by school staff on the answer document. The student's Program Services Plan shall include any accommodations or modifications or both which are part of the on-going instructional process and are based on the needs identified on a language proficiency test. Accommodations or modifications or both shall not be made solely for the state-required Assessment.

D. Submitting a Portfolio in a Language Other than English

A student with limited English proficiency may submit a portfolio in a language other than English if:

- the student's daily instruction and class work are conducted in the student's native language, and
- the local scorer or a scorer hired by the district is both fluent in that language and trained to score the portfolio.

If this portfolio is pulled for audit, the services of appropriate scorers shall be obtained or the portfolio shall be translated to English by a qualified interpreter.

SECTION 4 - INCLUSION OF STUDENTS RECEIVING INSTRUCTION IN HOME/HOSPITAL SETTINGS

A. Determining Participation

For students receiving instruction in home/hospital settings (i.e., homebound instruction, not home schools), school personnel shall determine on an individual basis how each student will participate in the state-required Assessment and Accountability Programs. The decision shall be documented for each student. The options for participation shall include:

1. The student participates fully; or

2. The student is exempted medically.
 - a. If participation in the state required assessment would jeopardize a student's physical, mental or emotional well being, a school or district shall submit a request for medical exemption, which is subject to the approval of the Department of Education and which describes the medical condition that warrants exempting a student from all or portions of the assessments.
 - b. An identified disability or handicapping condition alone shall not be considered sufficient reason for granting a medical exemption to state required assessment and accountability requirements.
 - c. A student with an approved medical exemption shall be excluded from state required assessments and state and federal accountability calculations.

B. Participation of Students with Disabilities in Home/Hospital Settings

If a student with disabilities is receiving instruction temporarily or long-term in a home/hospital setting, the Admissions and Release Committee or 504 Committee shall follow the procedures described in Section 1 of this document and all federal and state requirements related to due process. A student eligible for participation in the Alternate Portfolio Assessment Program who is receiving instruction in home/hospital settings shall participate in the Alternate Portfolio Assessment unless the student has an injury or illness verified by a physician in accordance with the procedures described in Section 4,A.2 and 704 KAR 7:120.

State Agency Children who receive educational services in a classroom setting located in residential facilities shall not be considered as meeting the criteria for being served in a home/hospital program.

SECTION 5 - INCLUSION OF STUDENTS WITH TEMPORARY MEDICAL CONDITIONS THAT NECESSITATE ACCOMMODATIONS OR MODIFICATIONS OR BOTH FOR PARTICIPATION

Students who become injured (e.g., broken hand) or develop an ailment (e.g., temporary paralysis due to an illness) before or during the testing window may be allowed appropriate accommodations or modifications or both to allow their participation in the state-required Assessment and Accountability Programs. A letter describing the situation and what accommodations or modifications or both are provided shall be sent to the Division of Assessment Implementation and a copy kept on file in the district.

SECTION 6 - CONDITIONS FOR IMPLEMENTING ACCOMMODATIONS OR MODIFICATIONS OR BOTH

A. General Conditions for Using Accommodations

Accommodations or modifications shall meet the following conditions:

- (1) For students with a disability, accommodations or modifications in the instructional process shall be both age-appropriate and related to both the student's verified disability

and specially designed instruction described in the student's IEP or intervention strategies and modifications described in the student's 504 Plan. For students with limited English proficiency, accommodations or modifications in the instructional process shall be related to both the student's level of English language proficiency and specially designed instruction described in the student's Program Services Plan (PSP). Accommodations or modifications shall be based on the individual needs of the student and not on a disability category (e.g., emotional-behavior disabilities, specific learning disabilities, multiple disabilities, other health impairment, etc.) or designation as limited English proficient;

- (2) Accommodations or modifications shall be part of the student's ongoing instructional program and not introduced for the first time during state-required Assessment;
- (3) Accommodations or modifications shall be for the purpose of students accessing the general education curriculum and demonstrating what they know and are able to do;
- (4) Changes in the administration of the assessment or recording of student responses shall be consistent with the instructional strategies, assistive technology devices, and services identified on the student's Individual Education Program (IEP), 504 Plan; or Program Services Plan; and
- (5) Accommodations or modifications or both shall not inappropriately impact the content being measured.

B. Conditions for Specific Accommodations

There are a variety of accommodations or modifications that may be appropriately used for students with disabilities on the state-required Assessment, including:

- readers;
- scribes;
- paraphrasing;
- use of technology and special equipment;
- extended time;
- reinforcement and behavioral modification strategies;
- manipulatives;
- prompting or cueing; or
- interpreters.

Any individual who scribes, reads, or provides any other assistance to a student with disabilities during the state-required Assessment shall be trained in his/her role and responsibilities and abide by confidentiality laws, provisions of 703 KAR 5:080, 703 KAR 5:160, and this administrative regulation, and the conditions under which each student uses the accommodation or modification as described in the student's IEP, 504 Plan, or Program Services Plan. Any non-certified person providing assistance for a student with disabilities or limited English proficiency shall read and sign a NonDisclosure Agreement.

Students with disabilities participating in the state-required assessments shall be administered particular forms of the tests through a random distribution identical to that of students without disabilities. The only permissible exceptions to the random distribution shall involve a student with limited English proficiency as described in Section 3(c) of this

document, and on-line testing, audiotape testing, visual impairments, or hearing impairments that use specific forms of the assessment.

Readers

If listening to a reader is the normal mode through which the student is presented regular print materials, reading assessments may be read to a student on the premise that the intent of reading is to measure comprehension. This shall be documented on the student's IEP, 504 Plan or Program Services Plan. Instruction related to reading performance shall not be replaced by accommodations or modifications or both.

In order for the use of a reader to be allowed during the state-required assessments, the ARC or 504, or Program Services Plan Committee shall have considered under what conditions a student will use a reader on a routine basis during instruction. The committee shall address the following:

- *Will the student use a reader for all print materials?*
- *Will the student use a reader only when reading content material written on his age appropriate grade level?*
- *Will the student use a reader when receiving direct instruction in the acquisition of reading skills and strategies?*
- *Will the student use a reader only when reading under time constraints?*

On-demand tasks (i.e., open-response items, multiple-choice questions, and writing prompts) may be read to students under the following conditions:

- the student has a verified disability, which significantly impacts the area of reading;
- the student's limited English proficiency significantly impacts the area of reading in English;
- the student's IEP includes specific goals and objectives and specially designed instruction related to reading or describes supplementary aids and services (e.g., large-print or Brailled text, tape recorders, assistive or adaptive technology) necessary for the student to access, be involved in, and progress through the general education curriculum;
- The student's 504 Plan includes intervention strategies and modifications that address reading;
- evaluation information supports the need for intervention and accommodations in the area of reading; and
- the student's IEP or 504 Plan or Program Services Plan documents the use of a "reader" to gain information and meaning from print material as part of the student's regular instructional routine. A "reader" shall not be a replacement for reading instruction or assistive or adaptive technology.

A "reader" shall not inappropriately impact the content being measured.

A "reader's" responsibilities shall be consistent with accommodations described in the student's IEP 504 Plan, or Program Services Plan. The role of the "reader" described below shall be considered in the context of the student's IEP or 504 Plan and how the student reads routinely for instructional activities and classroom assessments.

The “reader” shall:

- read the directions, prompts, situations, passages, and stories as written unless the student meets the criteria outlined in this document for “paraphrasing.” The “reader” shall follow the rules for “paraphrasing”;
- not use information to lead the student to specific information needed for answering the open-response items or multiple-choice questions;
- re-read the directions, prompts, situations, passages, and stories, only if specifically requested by the student; and
- not point out parts of the task, questions, or parts skipped by the student.

Scribes

The Admissions and Release Committee, 504 Committee or Program Services Plan Committee shall consider under what conditions a student will use a scribe on a routine basis during instruction. The Admissions and Release Committee, 504 Committee or Program Services Plan Committee shall address the following:

- *Will the student use a scribe only for prewriting activities while the student brainstorms ideas?*
- *Will the student use a scribe only when instructional activities, including classroom assessments, involve a time constraint?*
- *Will the student use a scribe only when instructional activities and classroom assessments in content areas require written responses?*
- *Will the student use a scribe for all instructional activities and classroom assessments that require written responses?*

A “scribe” may be used for the state-required Assessment when:

- a student has a verified disability (e.g., specific learning disability, traumatic brain injury, physical disability, autism, mild mental disabilities, emotional-behavioral disabilities) which significantly impacts the student’s basic writing skills, or a physical disability which impedes the motor process of writing;
- a student’s limited English proficiency significantly impacts the student’s basic writing skills in English;
- the student’s IEP or Program Services Plan includes specific goals, objectives, and specially designed instruction related to writing or describes supplementary aids and services (e.g., Braille writers, communications boards, tape recorders, assistive technology, notetaker, scribe) necessary for the student to access the general education curriculum; or the student’s 504 Plan includes intervention strategies and modifications addressing written expression;
- the student uses a “scribe” as part of the student’s regular instructional routine to communicate information and knowledge;
- evaluation information supports the need for accommodations or modifications or both in the area of writing;
- the student’s IEP, 504 Plan or Program Services Plan documents the use of a “scribe” as part of the student’s regular instructional routine; and
- A scribe is not being used as a replacement for writing instruction or assistive or adaptive technology.

Three examples of students who may need scribes include:

- 1) A student is able to print, use cursive techniques, or use technology; however, the student's written expression deficit is so severe that the student cannot translate thoughts into written language even though the student can express thoughts orally. This is a very rare situation in which such students cannot recognize written words or make sound-symbol associations.
- 2) A student can write, but writes very slowly and the time constraint of instructional on-demand tasks will inhibit the student's ability to produce the required product. In such case, the evaluation data shall document the writing fluency deficit (e.g., rate of writing).
- 3) A student with limited English proficiency who at the beginning stages of English language acquisition is able to express ideas orally but due to first language interference, the student's grasp of sound-symbol relationships impedes the student's ability to communicate in written English.

A "scribe" shall not be used for the state-required Assessment if one of the following conditions is present:

- a student does not have a verified disability (e.g., specific learning disability, traumatic brain injury, physical disability, autism, mild mental disabilities) or limited English proficiency which significantly impacts written expression or a physical disability which impedes the motor process of writing;
- a student has the ability to translate thoughts into written language and is motorically able to print, use cursive techniques, or use technology (e.g., word processor; typewriter, augmentative communication device);
- the student is able to produce the product, but the product would be more legible if it were scribed (i.e., to enhance written products); or
- the student has a motoric physical disability or severe disability in the area of written expression, but is able to use appropriate technology or assistive or adaptive technology to respond to the task independent of a "scribe".

Technology and natural supports shall be used prior to the more intrusive process of using a "scribe" and these strategies should be provided in the normal course of instruction. A "scribe" shall not inappropriately impact the content being measured. A "scribe's" role shall be to record the student's work to allow the student to reflect what the student knows and is able to do while providing the student with an alternative means to express his thoughts and knowledge. At no time shall a student's ideas, revisions, or editing be characterized as teacher-, peer-, or parent-authored. In all components of the state required assessment, a student shall be the sole creator, author, and owner of his work. A "scribe" shall record student responses consistent with accommodations described in the student's IEP, 504 Plan or Program Services Plan for instructional activities and classroom assessments.

Even if a "scribe" is being appropriately used, instruction shall be routinely provided in the content appropriate for the student's age level peers.

Specific Test Components - Role of Scribe:

Multiple-choice Questions

If a “scribe” is used to assist students with completing multiple-choice items, the “scribe” shall merely record the answer selected by the student. Generally, only students who have physical limitations who are unable to respond to classroom test items by marking answer documents shall use a “scribe.”

Portfolios

When a “scribe” is needed for portfolio development, the “scribe” records what the student dictates word-for-word. The “scribe” shall format, capitalize, and punctuate the student’s writing as directed by the student or with whatever punctuation seems to best reflect the student’s verbal flow of ideas. For example, rising inflection at the end of a spoken phrase shall be indicated by a question mark. Similarly, a pause following the statement of a complete idea shall be indicated by a period. The “scribe” shall do the scribe’s best to punctuate the student’s phrases as they are spoken, without undue deliberation and without subsequent correction. The work of a “scribe” shall accurately reflect the text being dictated by the student. The scribe may also ask the student to spell specific words, indicate words to capitalize, and where to use punctuation. The “scribe” shall not correct grammar, run-on sentences, or organization of the student’s ideas.

During conferencing the teacher may ask the student to read his work aloud or the teacher may read the student’s work aloud to determine what changes the student thinks are necessary. The “scribe” shall give the written product to the student to revise and edit. The teacher may ask the student questions. However, the student, as the writer shall decide what to add and delete, how to elaborate and extend ideas, connect his thoughts and clarify purpose, audience, meaning, content, and organization. A student may revise and edit his pieces using technology or manual writing (cursive or printing), or may dictate revisions and edits to the “scribe.”

Since portfolio entries are developed over time as an integral part of instruction, students receiving specially designed instruction and related services as described in an IEP or interventions and accommodations described in a 504 Plan or Program Services Plan shall be writing as part of their normal course of instruction. This shall include writing across content areas (e.g., mathematics, science, social studies, arts and humanities, language arts, practical living/vocational studies).

Open-Response Items

When a “scribe” is needed for assisting students with open-response items, the scribe shall write what the student dictates. Since the purpose of the open-response items is to assess the application of knowledge in the content areas, the “scribe” may record the student’s responses using correct spelling, punctuation, and capitalization. The “scribe” shall not correct grammar, run-on sentences, or organization of the student’s ideas.

On-Demand Writing

When a student needs a “scribe” to address on-demand writing, the “scribe” shall write what the student dictates. The “scribe” shall follow the directions for use of a “scribe” for portfolios. The “scribe” shall not provide instruction or conference with the student during the on-demand writing prompt. The “scribe” shall not correct grammar, run-on sentences, or organization of the student’s ideas.

Local districts and schools shall decide who may be a “scribe” or a “reader” for state required Assessment. Although peer tutors are used frequently during instruction, they shall not be used for open-response items, on-demand writing prompts, and multiple-choice items due to the requirements of 703 KAR 5:080 and confidentiality (KRS 160.700 et seq.).

Paraphrasing

Teaching a student to use paraphrasing strategies, which are used to restate printed text or oral communication using other words or forms putting printed text and oral communication into his own words, shall be appropriate instruction for a student who has limited English proficiency or has a difficult time understanding and remembering reading material, oral and written questions, and oral communication such as conversations and oral directions. For a student with a disability, the instructional goal shall be to provide the student with a repertoire of strategies to use independently. The ARC or 504 Committee shall consider under what conditions a student will use paraphrasing strategies on a routine basis during instruction. For a student with limited English proficiency, the instructional goal shall be to provide the student with comprehensible input by restating printed text using simpler language with simple sentence structure.

On-demand tasks (i.e., open-response items, multiple-choice questions, and writing prompts) may be paraphrased under the following conditions:

- the student’s disability or lack of English proficiency impacts his understanding and memory of written materials, or if a student has a severe receptive language or listening comprehension deficit which impacts the student’s ability to process oral language;
- the student’s IEP or Program Services Plan includes specific goals and objectives and specially designed instruction related to reading comprehension, language, listening comprehension or describes supplementary aids and services and accommodations necessary for the student to access the general education curriculum (i.e., participation in the regular education program), or the student’s 504 Plan includes intervention strategies and modifications addressing these areas.
- the student’s IEP, [or] 504 Plan or Program Services Plan documents the use of paraphrasing as part of the student’s regular instructional routine; and
- the student uses a “paraphraser” as part of the student’s regular instructional routine to gain information and meaning from print material. A “paraphraser” shall not be a replacement for reading, listening, or oral communication instruction or assistive or adaptive technology.

Paraphrasing for the state-required Assessment and Accountability Programs shall be consistent with classroom instruction and includes:

- repeating or rephrasing the on-demand tasks, directions, prompt, or situation. This shall include breaking directions and sentences into parts or segments or using similar words

or phrases, but shall not include defining words or concepts or telling a student what to do first, second, etc. Stories (reading passages) and content passages may not be paraphrased.

A “paraphraser” shall not inappropriately impact the content being measured.

Use Of Technology And Special Equipment

The Admission and Release Committee, 504 Plan Committee or Program Services Plan Committee shall consider under what conditions a student may use technology on a routine basis during instruction. During the state-required Assessment, a student with a disability or limited English proficiency may use special equipment, including assistive or adaptive technology described in the student’s IEP, [or] 504 Plan or Program Services Plan, which is part of the student’s regular instructional routine, such as:

- Amplification equipment;
- Noise buffers;
- Magnifying devices;
- Non-calibrated ruler or template;
- Communication boards or devices;
- Word processors;
- Talking calculators;
- Speech Synthesizer;
- Speech Recognition Software;
- Close-captioned or video materials;
- Audiotaped directions;
- Cranmer Abacus;
- Text-talk converters;
- Auditory trainer;
- Electronic dictionaries; and
- Braille writers.

If the use of special equipment (e.g., talking calculators, electronic dictionaries) during the state-required Assessment would influence the performance of another student, then the assessment shall be administered to the student in an alternative setting.

If it is necessary for a student with special needs or limited English proficiency to complete written work (including responses to test items) on a computer and this accommodation is noted on a student’s IEP, 504 Plan, or Program Services Plan and if this procedure is routinely used in the student’s regular instructional program, it may be used when responding to open-response questions while participating in the state-required Assessment. This use of technology shall be subject to the following:

1. A template must be prepared, in advance of the beginning of the on-demand assessment, in the appropriate word-processing program for the student’s use. This template shall include, as a header at the top of each page, the words “APPENDIX A: STUDENT RESPONSE PAGE” and the date of the assessment administration. Following those words, the header for each page shall include space for the:

- student name;
 - name of the school district;
 - lithocode number from the student's Student Response Booklet;
 - name of school;
 - name of the content area test being taken; and
 - question letter or number.
2. A student's response to one or more open-response questions shall not be saved to the hard drive of the computer where the student is working.
 3. A student's response to one or more open-response questions shall not be saved to any part of a computer network to which the student's computer may be attached.
 4. The student's responses to all open-response questions shall be saved directly and only to a diskette (3.5 inch or 5.25 inch as appropriate for the computer being used) or compact disc if no diskette is available.
 5. After the student completes work on a testing session, the following steps shall be taken immediately (i.e., with absolutely no break in time after the student completes work):
 - a) The responses completed by the student during that testing session shall be printed.
 - b) The printed responses shall be placed into the student's Student Response Booklet.
 - c) The diskette or disc upon which the student's responses to the open-response questions from that testing session were saved shall be securely stored until the next testing session for that student.
 - d) The student's Student Response Booklet shall be securely stored until the next testing session for that student.
 - e) The computer upon which the student was working shall be logged off of any network to which it was attached and completely powered down to ensure that all trace of the student's work which may have been saved in a temporary file has been eliminated.
 6. When the Student Response Booklet is submitted to the testing contractor for scoring, the diskette (blank and reformatted) or erased disc shall be submitted as well. The diskette or disc shall be physically destroyed by the testing contractor.

Extended Time

Students with disabilities who have IEPs, 504 Plans or students with limited English proficiency who have a Program Services Plans that stipulate extra time is needed to complete assessments shall be allowed extended time to complete items on state-required tests as long as extended time is an accommodation for assessments and completion of assignments as part of their daily instructional routine. To warrant additional time on the state-required Assessments, students shall be making constructive progress on completing their responses and the school shall provide proper supervision to maintain an appropriate assessment atmosphere.

Reinforcement And Behavior Modification Strategies

Students with disabilities who have IEPs or 504 Plans that stipulate the use of reinforcement or behavior modification strategies (e.g., points for being on task or testing in a separate location outside the regular classroom), and the use of such strategies are implemented during routine instruction, may use these strategies on the state-required Assessment.

If behavior modification strategies are not stipulated in a student's IEP or 504 Plan, they still may be implemented for a student who displays aggressive or disruptive behavior during testing. They shall be administered in the best interest of the student and other students who may be impacted by the behavior. If school staff decide to administer the assessments to the student in a separate location, all standards for appropriate test administration and security shall be maintained. If a student is not making progress in completing the assessment items and the student's behavior impacts the performance of other students, then school staff may remove the student from the assessment situation as they would a student without disabilities. If the test the student is being administered is part of the accountability program, the school shall receive a non-performance score for the student for the unfinished content area of the assessment and the student's score is included in calculations to determine school success.

Manipulatives

Manipulatives may be used to complete the state-required tests and the development of portfolios if they are a strategy used by the student to solve problems routinely during instruction and the use of manipulatives is described in the student's IEP or 504 Plan or manipulatives are provided as part of the prompts for the state-required Assessments. However, the student shall not be encouraged to use manipulatives if the student has not initiated their use.

Prompting or Cueing

The ARC, [6F] 504 or Program Services Plan Committee shall consider under what conditions a student will use prompting and cueing on a routine basis during instruction including classroom assessment practices. Accommodations or modifications shall be related to the individual student's needs and the impact of the disability and/or level of English language proficiency on specific areas of learning. The decision to use accommodations or modifications shall be determined by the ARC, 504 or Program Services Plan Committee and be supported by evaluation information, instructional planning, and must be specified in the student's IEP, 504, or Program Services Plan as necessary for the student to access the general education curriculum.

For some individual students with disabilities and/or limited English language proficiency, these prompts, cues and notebooks are an essential part of their specially designed instruction or an accommodation depending on the student's disability and/or level of English language proficiency and the impact these have on learning. Evidence from the student's evaluation information and present level of performance shall support the need for these strategies and demonstrate that a student's disability and/or limited English proficiency has impacted the

student's acquisition, retrieval, memory or organization of learning, and therefore the student's specially designed instruction and accommodations include memory, organization, retrieval or acquisition strategies or devices. These strategies and devices may take many forms, including technology based formats and strategies.

During classroom instruction these prompts, cues, and notebooks become a collection of tools to assist a student with disabilities in accessing the general education curriculum, organizers for their thinking and work, a management strategy to assist a student in organizing their learning and memory devices (e.g., mnemonics) that foster English language acquisition, life long learning, independence and self cueing strategies. Personal reference notebooks and cue cards, when specified as an accommodation or modification for a student with disabilities and/or limited English proficiency, are specific to the child and consistent with the needs of the individual student and his/her specific disability or limited English proficiency. They are personal and not generic.

If a student uses any of these prompting or cueing strategies on a daily basis during instruction as stipulated by the student's IEP, 504 or Program Services Plan, the student may use such devices or strategies during the state-required assessment. The use of these strategies and guides for assessment shall be student initiated and not teacher initiated. -

On rare occasions, due to the nature of a disability, an individual student may need a verbal or non-verbal cue to begin a task or to refocus on the task. Over time, these prompts and cues shall be phased out as the student learns prompting and self-cueing strategies since the goal is for the student to become more self-reliant and independent.

The teacher shall not draw figures, suggest leading sentences, point out steps to follow, or provide content information needed to address test questions in classroom assessments or during the administration of the state required assessment.

During "conferencing", the teacher may guide instruction as part of guided practice using strategies such as prompting, cueing, explaining, and restating questions. Teachers may show students with disabilities and/or limited English proficiency who are using technology how to move margins, paragraphs, etc., when creating portfolio entries as part of the instruction to learn word processing skills. However, only the student shall indicate where to move paragraphs, sentences, words and margins.

There may be prompts, personal reference notebooks and/or other materials that are not designed for the purpose of the state required assessment but for instructional purposes. Classroom teachers often have students keep class or personal reference notebooks and develop prompts and cues as part of instruction and as an instructional management strategy. All of the materials that might be included in a personal notebook or cueing system during classroom instruction will not be appropriate for inclusion during administration of the state required assessments. No content information shall be included in graphic organizers and/or cueing systems during test administration.

EXAMPLES AND NON-EXAMPLES OF PROMPTS AND CUES
FOR STATE -REQUIRED ASSESSMENTS

NOTE: Graphic organizers and cueing systems used for state required assessments shall be content free.

<i>Examples Can Be Used in the State Assessment</i>	<i>Non-Examples CANNOT Be Used in the State Assessment</i>
Graphic organizer (e.g. concept/comparison organizer or matrices, Venn diagrams, classification web, KWL chart, metaphor thinking organizer, an organizer for making predictions, flowcharts, sequence chains, web) that the child typically uses to construct responses routinely for assignments and classroom tests.	A graphic organizer completed with content information comparing and contrasting the similarities and differences of geographic locations, a web of subsystems of a habitat, a Venn diagram illustrating relationships between specific human body systems, a timeline illustrating historical time periods of specific music, a web classifying animals by body structure, needs, habitat, and geographic locations, a completed prediction organizer about how the changing demographic patterns in the United States may impact business, natural resources, politics and education in 2075.
Cue card with a checklist of the steps for editing, revision, or the writing process.	A cue card, article, or draft of writing with key knowledge or information about a specific artist or the earth's movement.
Cue card, thinking map, questioning guide or matrix with strategies to generate ideas such as brainstorm ideas, generate many ideas, generate different types of ideas, generate unusual ideas, elaborate adding details to the ideas, assess ideas to decide what ideas best match the context of the task.	A completed brainstorming or thinking map with ideas about how to handle bullying or how to welcome new students in the school. A completed thinking map about how to attract new businesses to the community or how a character in a book could handle a situation in different ways, or how to expand arts for children in the community including displays of children's artwork.
A cue card with mathematics formulas, properties, theorems, and right angle relationships (e.g., Grade 8 or 11 Mathematics Reference Sheets) or a cue card providing formulas with an example.	A cue card with mathematics formulas including multiple examples of open-response mathematics problems.

Cue card or web with a mnemonic such as RAP (read, ask yourself a question, put it in your own words).	Cue card or graphic organizer with key concepts and content about the water cycle, human body systems, or Kentucky history.
Technology based graphic organizers content free.	Technology based organizers such as a completed webbing organizer that contains the content of the parts of a plant or major cultural, economic and political influences on art.
Verbal or Written Prompt: "It's time to start."	Verbal or Written Prompt: "Do you think you have written a complete answer?"
Verbal Prompt: "When you are ready to move on to the next section, let me know."	Verbal Prompt: "It looks like you have written a complete and good response. Let's move on to the next section."
Technology created spreadsheet content free.	Technology created spreadsheet with completed content of demographic patterns in the United States.
Student initiated use of word prediction software with the student making decisions about the word choice.	Teacher directing a student to the best word choice to use.

Interpreters for a Student with a Hearing Impairment

The state-required tests may be signed (i.e., translated to the student in sign language) for students with disabilities under the following conditions:

- the student has a verified disability in the area of hearing to the degree that the student's development of language (i.e., receptive and expressive) is significantly impacted or the student uses sign language as the normal mode of communication due to his disability;
- the student's IEP includes specific goals and objectives and specially designed instruction related to reading, communication and language development or describes supplementary aids and services (e.g., American Sign Language, communications boards, tape recorders, assistive or adaptive technology) necessary for the student to access the general education curriculum; or the student's 504 Plans includes intervention strategies and modifications that address written expression;
- evaluation information supports the need for the interventions and accommodations;
- the student's IEP or 504 Plan documents that printed materials and oral communication used in daily instruction are typically "signed" to the student as part of specially designed instruction or supplementary aids and services necessary for the student to access and be involved and progress in the general education curriculum (i.e., participation in the regular education program); and

- “signing” is used as part of the student’s regular instructional routine to gain information and meaning from print material and oral communication.

“Signing” shall not be a replacement for technology or reading instruction. The interpreter shall not indicate correct answers to test items. For example, interpreters shall not define words for students, provide content, or teach vocabulary or concepts during the on-demand writing, open-response, or multiple-choice assessments.

Interpreters who are also scribes shall follow the policies on scribing outlined in this document. For example, American Sign Language does not have signs for articles; therefore the interpreter shall not insert articles in the student’s writing pieces.

Oral Interpreters for a Student with Limited English Proficiency

The state-required tests may be interpreted orally into the primary language of a student with limited English proficiency under the following conditions:

- the student has been officially designated limited English proficient;
- the student’s Program Services Plan includes specific goals and objectives related to reading, communication and language development in English;
- evaluation information supports the need for the interventions and accommodations; and
- the student’s Program Services Plan documents that oral translation from English to the student’s primary language is part of the student’s ongoing delivery of instruction and necessary for the student to access and be involved in the general education curriculum.

Interpreting shall not be a replacement for providing instruction in English but will be used to support the student’s meaningful participation in English speaking classrooms. Interpreters shall not add to or detract from spoken and/or written material to be interpreted.